

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

DELEK US HOLDINGS, INC.,)
)
Plaintiff,)
) Civil No. 3:19-cv-332
v.)
) Judge William L. Campbell, Jr.
UNITED STATES OF AMERICA,) Magistrate Judge Jeffery S. Frensley
)
Defendant.) **ORAL ARGUMENT REQUESTED**

MOTION FOR SUMMARY JUDGMENT

Pursuant to Fed. R. Civ. P. 56(a) and Local Rule 56.01, Plaintiff Delek US Holdings, Inc. (“Delek”) hereby moves for summary judgment in its favor and against Defendant, the United States (“Defendant”) as to all counts in the Complaint.

Delek moves for summary judgment on the following grounds: Congress enacted a federal tax credit to incentivize mixing renewable fuels (the “Incentive”). Delek earned that Incentive for its mixing activities during the 2010 and 2011 tax years. The parties agree that Delek’s mixing activities underlying this dispute qualify for the Incentive. The IRS improperly taxed the Incentive earned by Delek based solely on the method used by the IRS to pay the Incentive. That determination was illegal and erroneous, and Delek is therefore entitled to a tax refund.

In support of this Motion, Delek relies upon the Memorandum and Statement of Undisputed Material Facts filed contemporaneously herewith, and the pleadings on file in this action.¹

¹ Should the Court grant summary judgment in whole or part, the parties would have to perform a recomputation of Delek’s tax returns to determine the precise amount of refund Delek should receive. 26 U.S.C. §§ 6402(a), 6621(d). For this reason, Delek respectfully suggests that the Court instruct the parties to agree on tax and interest computations and submit a separate form of

REQUEST FOR ORAL ARGUMENT

Delek respectfully requests that the Court hear oral argument on this Motion. Delek makes this request because of the importance and complexity of the tax law issues raised in the Motion.

Dated this 13th day of July 2020.

Respectfully submitted,

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judgment in accordance with the Court's decision. *See, e.g., Meredith Corp. v. United States*, 2020 WL 1330240, at *29 (S.D. Iowa Mar. 19, 2020) (in complex corporate tax refund suit, computations performed after decision following bench trial); *cf. United States Tax Ct. Rules of Practice and Procedure 155(a)*(U.S. Tax Court's routine procedure for agreed computations in accordance with the findings and conclusions of the court).

CERTIFICATE OF SERVICE

I hereby certify that on July 13, 2020, I caused the foregoing MOTION FOR SUMMARY JUDGMENT to be served via the Court's CM/ECF electronic filing system to the following:

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